

E-Filed 2/8/11

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

LISA GALAVIZ, derivatively on behalf of
ORACLE CORPORATION,

Plaintiff,

vs.

JEFFREY S. BERG, et al.,

Defendants;

-and-

ORACLE CORPORATION,

Nominal Defendant.

PHILIP T. PRINCE, derivatively on behalf of
ORACLE CORPORATION,

Plaintiff,

vs.

JEFFREY S. BERG, et al.,

Defendants;

-and-

ORACLE CORPORATION,

Nominal Defendant.

Case No. C-10-03392-RS

**[PROPOSED] ORDER
CONSOLIDATING ACTIONS,
APPOINTING CO-LEAD COUNSEL,
AND SETTING SCHEDULE FOR
FILING OF AND RESPONSE TO
CONSOLIDATED COMPLAINT**

AS MODIFIED BY THE COURT

Case No. C-10-4233-RS

There are currently two shareholder derivative actions on behalf of nominal defendant Oracle Corporation ("Oracle") pending in the Northern District of California, *Galaviz v. Berg, et al.*, Case No. C-10-3392-RS and *Prince v. Berg, et al.*, Case No. C-10-4233-RS.

The Court has previously determined that the Oracle derivative actions identified above are related pursuant to Local Rule 3-12(a) and both have been assigned to this Court.

I. CONSOLIDATION OF ACTIONS

1. The actions of *Galaviz v. Berg, et al.*, Case No. C-10-3392-RS and *Prince v. Berg, et al.*, Case No. C-10-4233-RS are hereby consolidated for all purposes, including pretrial proceedings, trial, and appeal ("the Consolidated Action"). The following dates shall be in effect for the Consolidated Action:

February 10, 2011: Last day to file Case Management Statement

February 17, 2011: Initial Case Management Conference

2. The Consolidated Action shall be maintained in one file under Case No. C-10-3392-RS. The file of *Prince v. Berg et al.*, Case No. C-10-4233-RS shall be closed. Every pleading filed in the Consolidated Action, shall bear the following caption:

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

In re ORACLE CORPORATION DERIVATIVE LITIGATION)))	No. C-10-3392-RS
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3. The terms of this order shall apply to actions later instituted in, removed to, or transferred to this Court that involve the same or substantially similar issues of law and fact, subject to applicable rules. Counsel shall call to the attention of the Court and the Clerk the filing

1 or transfer of any case which might properly be consolidated with the Consolidated Action.
 2 Mailing or other delivery of a copy of this order by counsel for defendant Oracle Corporation, or
 3 Plaintiffs' Co-Lead Counsel (see II. Below), as appropriate, to the counsel in any newly-filed or
 4 transferred actions shall constitute valid notice thereof for purposes of establishing its
 5 applicability to such action in accordance herewith. The file of any such case shall be closed
 6 upon entry of an order therein confirming that it is subject to consolidation under this order.

8 **II. MANAGEMENT STRUCTURE**

9 4. The Court appoints the following firms and attorney as Co-Lead Counsel for the
 10 consolidated action:

11 Cotchett, Pitre & McCarthy, LLP

12 Law Offices of John M. Kelson

13 Jerry K. Cimmet, Attorney at Law

14 **III. SCHEDULE**

15 5. Plaintiffs shall, within twenty days following the entry of this Order, but in no
 16 case later than February 10, 2011, file and serve a consolidated complaint which will supersede
 17 all existing complaints filed in these actions. Defendants need not respond to any of the pre-
 18 existing complaints. Service shall be effected with respect to any named defendant by serving
 19 the consolidated complaint on that defendant's counsel.

20 6. Defendants shall answer or otherwise respond to the consolidated complaint no
 21 later than February 25, 2011. In the event that defendants file and serve any motions directed at
 22 the consolidated complaint, plaintiffs shall file and serve their opposition no later than March 25,
 23 2011. If defendants file and serve a reply to plaintiffs' opposition, they will do so no later than
 24 April 14, 2011, and the hearing for defendants' motion(s), if any, will be set for April 28, 2011,
 25 or the next convenient date for the Court's schedule.

26 7. This schedule assumes no substantive amendments to the consolidated complaint.

1 To the extent the consolidated complaint is substantively different than plaintiffs' original
2 complaints, the parties shall meet and confer regarding the schedule.

3 8. Defendants' counsel may rely upon all agreements made with any Co-Lead
4 Counsel appointed by this Court.

5
6 IT IS SO ORDERED.

7 Dated: 2/7/ 2011



HON. RICHARD SEEBORG
United States District Judge